

REMARKS

In the Decision on Appeal decided on January 16, 2008 (the “Decision”), the Board of Patent Appeals and Interferences (“the Board”) affirmed the Examiner’s rejections of claims 18-27, reversed the Examiner’s rejections of claims 1, 3-17, 35, and 37-42, and entered a new ground of rejection for claims 35, 37, 38, 40, and 41. In view of the Decision, Applicant hereby elects to reopen prosecution pursuant to 37 C.F.R. § 41.50(b). By this Response, claim 35 is amended, claims 18-27 and 37-39 are canceled, and new claim 43 is added. Upon entry of these amendments, claims 1, 3-17, 35, and 40-43 are pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and following remarks, Applicant respectfully requests reconsideration and allowance of all pending claims.

Affirmed Rejections of Claims 18-27

In the Decision, the Board affirmed the Examiner’s rejections of claims 18-21 under 35 U.S.C. §§ 102(a) and (b) as being anticipated by what the Examiner has alleged to be Applicant Admitted Prior Art (AAPA); affirmed the Examiner’s rejections of claims 18-25 under 35 U.S.C. § 102(b) as being anticipated by Keller, et al., U.S. Patent No. 4,145,595 (hereinafter “Keller”); and affirmed the Examiner’s rejections of claims 26-27 under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of Willgoths, et al., U.S. Patent No. 3,999,033. By the present Response, Applicant has canceled claims 18-27, thereby rendering any outstanding rejection of claims 18-27 moot.

Reversed Rejections of Claims 1, 3-17, and 35-42

In the Decision, the Board reversed the Examiner’s rejections of claims 1, 3, 10, 11, 13-17, and 35-41 under 35 U.S.C. § 102(b), stating that “the Examiner has not properly identified factual findings and reasoning for establishing a *prima facie* case of anticipation based on Keller.” Decision, page 9. The Board also reversed the Examiner’s rejections of claims 4-9, 12, and 42 under 35 U.S.C. § 103(a). Because no new grounds of rejection have been set forth with regard to the claims 1 and 3-17, Applicant hereby

submits that these claims are presently in condition for allowance. As such, Applicant respectfully requests withdrawal of the Section 102 and 103 rejections and allowance of claims 1 and 3-17.

Further, while the Board set forth a new ground of rejection with regard to claims 35, 37, 38, 40, and 41, Applicant notes that no new grounds of rejection were set forth with regard to claims 39 and 42. As such, Applicant believes dependent claims 39 and 42 contain allowable subject matter. Accordingly, claims 39 and 42 have either been incorporated into independent claims or rewritten into independent form, as will be discussed below.

New Ground of Rejection Under 35 U.S.C. § 102 for Claims 35, 37, 38, 40, and 41

As discussed above, the Board reversed the Examiner's previous rejection of claims 35, 37, 38, 40, and 41 and entered a new ground of rejection with regard to claims 35, 37, 38, 40, and 41 under 35 U.S.C. § 102(b).

Amended Independent Claim 35

As discussed above, claim 39, which depends from claim 35, is believed to contain allowable subject matter. Accordingly, independent claim 35 has been amended to incorporate the allowable subject matter recited by claim 39 and the subject matter recited by intervening claims 37 and 38. Claims 37-39 have been canceled. In light of these amendments, Applicant submits that amended independent claim 35 is presently in condition for allowance. As such, Applicant respectfully requests withdrawal of the Board's new grounds of rejections with regard to independent claim 35, as well as dependent claims 40-42.

New Independent Claim 43

By the present Response, Applicant has added new independent claim 43, which is essentially claim 42 rewritten into independent form and including the subject matter

recited by base claim 35, as previously presented, as well as the subject matter recited by intervening claim 41. Because claim 42 is believed to contain allowable subject matter, as discussed above, Applicant submits that new independent claim 43 is presently in condition for allowance.

Conclusion

In view of the remarks and amendments set forth above, Applicant respectfully submits that all pending claims are presently in condition for allowance. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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